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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,334	09/16/2003	Matthias Finkbeiner	442-196	1532
23869	7590	05/13/2005	EXAMINER	
HOFFMANN & BARON, LLP 6900 JERICHO TURNPIKE SYOSSET, NY 11791			JONES, JUDSON	
			ART UNIT	PAPER NUMBER
			2834	

DATE MAILED: 05/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/663,334

Applicant(s)

FINKBEINER, MATTHIAS

Examiner

Judson H. Jones

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) ____ is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10, 13 and 14 is/are rejected.
- 7) ☒ Claim(s) 9, 11 and 12 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 032204.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: IDS 091603.

DETAILED ACTION

Claim Objections

Claim 8 is objected to because of the following informalities: there is no antecedent basis for the receiving space in claim 8. That limitation appears in claim 2, not in claim 1. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Denne 5,605,462 (of record). Denne discloses a linear drive device comprising a stator and an armature with a coil 24 and a magnet 27 as described in column 3 lines 24-34 with additional fluid power drive system as described in column 3 lines 35-41.

In regard to claim 2, the elongated receiving space in the stator is the cylinder 20 with the drive output part of the armature being the piston like member 27 formed from an annular magnet. See Denne figure 3.

In regard to claims 3 and 5, see Denne figure 3.

In regard to claim 4, see inlet means 30, 31.

In regard to claim 6, see elements 4A, 4B, 4C in figure 1.

In regard to claim 7, see elements 6A, 6B, 6C in figure 1.

Claim Rejections - 35 USC § 103

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8, 10, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Denne in view of DE 100 46 535 (of record). Denne discloses the linear drive device but does not disclose a longitudinally extending slot with the force output member extending through it. DE 100 46 535 teaches in figure 2 and in column 4 lines 51-60 that the force member can be extended through a slot 25 to make the force member easier to attach to different types of loads. Since DE 100 46 535 and Denne are from the same field of endeavor it would have been obvious at the time the invention was made for one of ordinary skill in the art to have utilized a slot with an output force member extending through it in order to allow the force member to be attached to various types of loads.

In regard to claim 10, DE 100 46 535 discloses two drive output parts, with the first being a dynamoelectric linear motor with a carrier rod 2 and the second being a piston 16 inside the carrier rod, with the piston being fluid driven.

In regard to claim 13, the two output force members are coupled by a yoke extending from inside the carrier member through slot 25 to the linear motor as shown in figure 2 of DE 100 46 535.

In regard to claim 14, the yoke part extending through slot 25 is the guide part that is kinematically coupled with the output force member. Slot 25 goes through carrier rod 2, which is

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the stator of the linear motor. The force output member is the movable part of the linear motor surrounding the carrier rod.

Allowable Subject Matter

Claims 9 ,11 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record does not disclose or teach a stator rod in combination with the other features of claim 9. In the DE 100 46 535 reference the stator element is a tube. The prior art of record does not disclose or teach two separate receiving spaces in combination with the other features of claim 11.


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Humphrey 4,368,396 and Ward 4,353,426 both disclose devices where a linear device is driven by both a linear motor and hydraulic fluid.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Judson H. Jones whose telephone number is 571-272-2025. The examiner can normally be reached on 8-4:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darren Schuberg can be reached on 571-272-2044. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Judson Jones 5/5/3005


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